

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Appellee,

vs.

Case No. MI15 H2000051
USM No. 41208-039
Appeal Case No. 07-X-50199
HON. GEORGE CARAM STEEH

CHRISTIAN GAGNON,

Defendant/Appellant.

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ORDER DENYING APPELLANT'S MOTION TO REINSTATE
BOND PENDING APPEAL (#16)

Christian Gagnon moves for reinstatement of bond pending appeal following this court's September 6, 2007 affirmance of his February 22, 2007 bench trial misdemeanor conviction for simple assault in violation of 18 U.S.C. § 111(a)(1) before Magistrate Judge Donald Scheer. Gagnon argues he is not a flight risk, nor a danger to the community, and that if he is not released on bond pending appeal, it is likely that he will have served his six month sentence before his appeal is heard by the Sixth Circuit.

As Gagnon recognizes, in addition to showing that he is not a flight risk or danger to the community, he must also demonstrate that his appeal raises a substantial issue of law or fact likely to result in reversal, a new trial, a sentence that does not include a prison term, or a reduced sentence of imprisonment less than his time served plus the expected duration of the appeal process. 18 U.S.C. § 3143(b)(1)(B). Gagnon's assertion that "the Magistrate Judge erroneously found him guilty of simple assault without making adequate

findings of fact in his application of law" falls short of demonstrating a substantial issue of fact or law remains that is likely to result in reversal, a new trial, or a modified sentence. This court rejected Gagnon's argument of inadequate fact finding in affirming his conviction. The question was not a close decision that could go either way, as argued by Gagnon in citing United States v. Pollard, 778 F.2d 1177, 82 (6th Cir. 1985). Absent a remaining substantial question of fact or law likely to result in a different disposition, the possibility that Gagnon may serve his six month sentence before his appeal is heard in the Sixth Circuit does not warrant granting Gagnon bond pending appeal. 18 U.S.C. § 3143(b)(1)(B). Accordingly,

Gagnon's motion for reinstatement of bond pending appeal is hereby DENIED.

SO ORDERED.

Dated: September 26, 2007

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on September 26, 2007, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk